the learned justice did not rest his decision on more legal grounds. His reasoning based upon public policy and business necessity should be well considered by legislatures before any further statutes similar to that in Vermont are passed. The time-honored custom which requires a premium reserve during the first year of a life policy would seem to be of doubtful propriety. If the premiums are so arranged that a sufficient reserve must of necessity be collected before the annual risk becomes larger than the annual premium, why need this reserve be collected at any particular stage in the life of the policy? But this is not the reasoning of the statute, which must refer to the time-honored method of reckoning reserves. The policies of the petitioners were drawn in order to avoid what they considered an unjust statute and they rested their claims on the peculiar form of their policy. Their contentions are strong and had the decision been rested upon them, it would probably carry more weight. It would show the uselessness of trying to compel a company to collect its reserve at any particular period in the life of the policy—a company can issue term insurance to cover any period during which it does not want to lay up a reserve. It cannot do this for any great length of time, because the reserve on a policy must be collected sometime before the risk equals the annual premium, and it would be impossible to accumulate enough if the number of years were cut down beyond a certain limit. The company should merely be required to show that it is collecting enough to have a reserve on hand for each policy before the annual risk equals the annual premium.

BANKRUPTCY—REVOCATION OF DISCHARGE.—If it be shown that a discharge was "obtained through the fraud of the bankrupt, and that the knowledge of the fraud has come to the petitioner since the granting of the discharge, and that the actual facts did not warrant the discharge," the District Court will, by Section 15, revoke the discharge. The Act of 1867, Sect. 34, was construed to mean that a discharge was to be set aside only because of new evidence which, if known at the time, would have prevented a discharge, and the fair import of the 1898 Act is that, primarily, the fraud urged should not be open to the plea of *res judicata*. In the case *in re Hoover*, 5 Am. B. R., 247 (E. D. C., Pa., 1900), the Court makes considerable point of fraud in obtaining the discharge as the only ground for a revocation. Judge BROWN, *in re Meyers*, 3 Am. B. R., 722 (S. D. C., N. Y., 1900), said that the same facts which would have prevented a discharge constitute a fraud in the procuring of the discharge. Judge LOWELL, *in re Rudwick*, 2 Am. B. R., 114 (D. C., Mass., 1899), speaks of a revocation only on the ground of fraud in the procuring of a composition. Unless any fraud which would have prevented the granting of a discharge is *per se* a fraud in procuring a discharge, this narrow interpretation is not consistent with the Act of 1898; and if these distinctions in kind of fraud are without a difference, the real governing principle is

the discovery subsequent to the discharge made by parties in interest "that the actual facts did not warrant the discharge," provided that application for a revocation is made within one year after the discharge.

BANKRUPTCY—PREFERRED CREDITOR'S SET-OFF.—That a creditor who receives a payment, though innocently, after the debtor is in fact insolvent is a preferred creditor seems the prevalent construction of Sections 57*g*, 60*a*, *b*, 1 COLUMBIA LAW REVIEW, 53. But it is yet disputed whether such a creditor may avail himself of the set-off allowed by Section 60*c*. According to that Section a preferred creditor who has "in *good faith*" sold the debtor more goods on credit without security can set-off the amount of this sale "against the amount which would otherwise be recoverable from him." It has been said that the section applies only to a guilty preferred creditor described in Section 60*b*, because of the words "recoverable from him," for the reason that it is only a guilty preference which is by the act recoverable. *In re Christensen*, 4 Am. B. R., 202 (N. D. C. Iowa, 1900). Consequently, an innocent preferred creditor who offered to pay back the excess of the preference above the set-off was denied the privilege of Section 60*c*. In interpreting that section too much weight has been given to the word "recoverable," and too little to the words "in good faith." One who has received a preference knowing of his debtor's insolvency could hardly be said to make a sale later to this same insolvent debtor in good faith. There is not much likelihood that a creditor will contribute his goods to help pay debts to others; and yet, unless a guilty preferred creditor has this intention he would not be extending further credit in that good faith required by the act.

There is no good reason to believe that the word "preference" in Section 60*c* has a different meaning from the same word in Section 60*a* or Section 57*g*, and the words "recoverable from him," if read in the light of these several sections would refer to the return of any preference by any creditor as a condition *sine qua non* of his proving his claim. Accordingly, an innocent preferred creditor, the only one who can answer to the description as to giving the insolvent further credit in good faith, should be allowed to prove his claim on paying the excess of his preference over the amount of unsecured credit given after receipt of the preference. So it has been held by GROSSCUP, J., in *McKey* v. *Lee*, 5 Am. B. R. 267 (C. C. A. Ill., 1901). The few cases in which section 60*c* has been construed take it for granted that it applies to guilty preferred creditors; but in this view the fundamental purpose of the act seems to have been overlooked. The guilty preferred creditor cannot say that he has extended further credit on the faith of the payment of his previous claims, because he knew of his debtor's insolvency, and the use of words seeming on first blush pertinent to him is not of itself sufficient to controvert the general design of the Legislature to discourage any fraud on creditors.

Accordingly, it is submitted that both *In re Christensen* and